

Memorandum

To: Mr. Timothy W. Boyer
Interim Executive Director

Date: September 18, 2003

From: Jean Ogrod
Acting Chief Counsel



Subject: **Request for Authorization to Publish the Proposed Amendment to
the State Board of Equalization's Conflict of Interest Code
Chief Counsel Matters - Rulemaking Calendar – October 15, 2003 Meeting**

We are seeking your approval to request authorization from the Board to publish the proposed amendment of the State Board of Equalization's Conflict of Interest Code (18 Cal. Code of Regs. section 6001). Appendix A of the Code is a list of designated positions by classification and the applicable disclosure categories. Appendix B of the Code is a list of disclosure categories.

The State Board of Equalization's Conflict of Interest Code, with its Appendices, is not applicable to Board Members. The reporting requirements of the Board Members are set forth in Government Code sections 87200-87210.

Government Code section 87100 provides that no official at any level of state or local government shall make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. Each agency is required to designate, in its Conflict of Interest Code, specific positions that make or participate in making decisions that may foreseeably have a material effect on financial interests (Government Code section 87300 et seq.).

When designating positions for the Conflict of Interest Code, the Board includes all positions that entail either:

The making of decisions by: voting on matters, appointing persons, obligating or committing the Board to any course of action, or entering into contractual agreements on behalf of the Board; or

The participation in the making of decisions, other than at a clerical or ministerial level, by: negotiating, without significant review, with a governmental entity or private person on matters regarding decisions, or advising or making recommendations to the decision-maker by conducting research or an investigation, preparing or presenting a report, analysis, or opinion which requires the exercise of judgment on the part of the designated employee.

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The Board is required, by Government Code section 87306, to amend its Conflict of Interest Code when necessitated by changed circumstances such as: the addition of a new classification that makes or participates in making decisions; the deletion of a classification that is no longer in use; or a change in or a reevaluation of job duties that is relevant to reporting obligations under the Code. Such changed circumstances at the Board necessitate this proposed amendment to the Code.

There are no proposed changes to the Conflict of Interest Code itself. The proposed changes to Appendix A reflect the classification and organizational changes that have taken place at the Board since the Conflict of Interest Code was amended last year. The statement regarding those auditors filing pursuant to Regulation 18733 is being amended to reflect new Form 700-A adopted by the Fair Political Practices Commission. In Appendix B, the name of the Ballast Water Management Fee Law is being changed to the Marine Invasive Species Fee Collection Law.

With your approval, this matter will be placed on the Chief Counsel Matters - Rulemaking Calendar of the October 15, 2003 meeting.

Approved: Timothy W. Boyer
Timothy Boyer

Date: 9-18-03

Attachments

cc: Board Proceedings Division

Title 18. Public Revenues

Division 2.1. State Board of Equalization--Conflict of Interest Code

§ 6001. General Provisions.

The Political Reform Act (Government Code Sections 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Section 18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference, and which may, after public notice and hearings, be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code of Regs. Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices A and B constitute the conflict of interest code of the Board of Equalization.

All designated employees of the State Board of Equalization shall file statements of economic interests with the State Board of Equalization. Upon receipt of the statement of the Executive Director, the State Board of Equalization shall make and retain a copy and forward the original to the Fair Political Practices Commission. Statements for all other designated employees will be retained by the State Board of Equalization.

Note: Authority cited: Sections 87300-87311, Government Code.

Reference: Sections 87302 and 87303, Government Code.

APPENDIX A

DESIGNATED POSITIONS

DISCLOSURE CATEGORIES

BOARD

Deputy to Board Member	All
Administrative Assistant to Board Member	All
Assistant to Board Member	All
CEA	All
Administrative Assistant	1-8
Staff Services Manager	1-8
Tax Counsel	1-6
Tax Consultant Expert	1-6
Program Specialist	1-6
Business Taxes Specialist	1-6
Associate Tax Auditor	1-6
Tax Services Specialist	1-6
Assistant Tax Services Specialist	1-6
Associate Governmental Program Analyst	1-6
Business Taxes Representative	1-6

EXECUTIVE

Executive Director	All
Administrative Assistant	All
Staff Services Manager (Training Unit)	9
Training Officer (Training Unit)	9

BOARD PROCEEDINGS DIVISION

CEA	All
Staff Services Manager	All
Associate Governmental Program Analyst (LAN Workgroup Manager)	1-6,8
Associate Governmental Program Analyst	1-6

CUSTOMER AND TAXPAYER SERVICES DIVISION

CEA	All
Staff Services Manager	1-9
Business Taxes Compliance Supervisor	1-9
Business Taxes Compliance Specialist	1-6
Assistant Tax Services Specialist	1-6
Associate Governmental Program Analyst	1-6
Associate Information Systems Analyst	8
Staff Services Manager (Forms and Publications Section)	7,9
Assistant Tax Services Specialist (Forms and Publications Section)	7,8
Associate Governmental Program Analyst (Forms and Publications Section)	7,8

LEGISLATIVE DIVISION

Assistant Chief Counsel	All
CEA	All
Staff Services Manager	1-6
Senior Specialist Property Appraiser	1-6
Business Taxes Specialist	1-6
Associate Governmental Program Analyst (System or LAN Administrator)	1-6,8
Operations Research Specialist	1-4,6,8
Research Program Specialist	1-4,8
Research Analyst	1-4,8

TECHNOLOGY SERVICES DIVISION

CEA	All
Business Taxes Administrator	1,2,7-9
<u>Business Taxes Compliance Supervisor</u>	<u>1,2,7-9</u>
Data Processing Manager	7-9
Staff Services Manager	7-9
Systems Software Specialist	8
Associate Systems Software Specialist	8
Senior Information Systems Analyst	8
Staff Information Systems Analyst	8
Associate Information Systems Analyst	8
Senior Programmer Analyst	8
Staff Programmer Analyst	8
Associate Programmer Analyst	8
Associate Governmental Program Analyst	8

TAXPAYERS' RIGHTS AND EQUAL EMPLOYMENT OPPORTUNITY DIVISION

CEA	All
Business Taxes Specialist (TRA)	1-4
Associate Property Appraiser (TRA)	1-4
Business Taxes Compliance Supervisor (Offers in Compromise)	1,2
Business Taxes Compliance Specialist (Offers in Compromise)	1,2
Business Taxes Specialist (Offers in Compromise)	1,2
Staff Services Manager (EEOO)	7,9
Associate Governmental Program Analyst (EEOO)	7,9

ADMINISTRATION DEPARTMENT

CEA	All
<u>Operations Research Specialist</u>	<u>1-4,6,8</u>
<u>Research Program Specialist</u>	<u>1-4,8</u>
<u>Research Analyst</u>	<u>1-4,8</u>
Training Officer (Training Office)	9
Associate Governmental Program Analyst (Training Office)	9

ADMINISTRATIVE SUPPORT DIVISION

CEA	All
Staff Services Manager	7-9,11
Associate Business Management Analyst	7-9
Associate Governmental Program Analyst	7-9
Business Services Officer III	7-9
Telecommunications Systems Analyst	11
<u>Office Services Manager (Supervisor, Cashier Unit)</u>	<u>7</u>

PERSONNEL MANAGEMENT DIVISION

CEA	All
Staff Services Manager	7-9
Associate Governmental Program Analyst	7-9
Associate Personnel Analyst	7-9
Labor Relations Specialist	7-9

FINANCIAL MANAGEMENT DIVISION

CEA	All
Staff Services Manager	7-9
Accounting Administrator	7-9
<u>Associate Account Analyst</u>	<u>7-9</u>
Associate Administrative Analyst	7-9
Associate Budget Analyst	7-9
Senior Accounting Officer	7-9

Associate Governmental Program Analyst	7-9
Staff Information Systems Analyst (Specialist)	8
POLICY, PLANNING AND EVALUATION DIVISION	
Staff Services Manager III	1-4, 7-9
Staff Services Manager I or II	7-9
Associate Management Analyst	7-9
Associate Business Management Analyst	7-9
Associate Governmental Program Analyst	7-9
Associate Information Systems Analyst	8
Senior Information Systems Analyst	8
Staff Information Systems Analyst	8
LEGAL DEPARTMENT	
CEA	All
LEGAL DIVISION	
Assistant Chief Counsel	All
Tax Counsel	1-6
Supervising Tax Auditor	1,2
Administrative Assistant	7-9
Librarian	7,8
Staff Information Systems Analyst	8
Associate Information Systems Analyst	8
Business Taxes Specialist II or III	1,2
Business Taxes Specialist I	1,2 *
INTERNAL SECURITY AND AUDIT DIVISION	
CEA	All
Business Taxes Administrator	All
Business Taxes Specialist	All
Associate Tax Auditor	All
Associate Governmental Program Analyst	7-9
Systems Software Specialist	8
Staff Information Systems Analyst	8
Associate Information Systems Analyst	8
Assistant Information Systems Analyst	8
INVESTIGATIONS DIVISION	
CEA	All
Business Taxes Administrator	1,2,7-9
Business Taxes Specialist	1,2
Business Taxes Compliance Specialist	1,2
Supervising Tax Auditor	1,2,9
Associate Tax Auditor	1,2
Staff Information Systems Analyst	8
Associate Information System Analyst	8
PROPERTY AND SPECIAL TAXES DEPARTMENT	
CEA	All
Administrative Assistant	1,2,6-9
<u>POLICY, PLANNING, ASSESSMENT POLICY AND STANDARDS DIVISION</u>	
CEA	All
Principal Property Appraiser	3,7-9
Senior Specialist Property Appraiser	3
Senior Specialist Property Auditor Appraiser	3
Supervising Property Appraiser	3,7-9
Associate Property Appraiser	3

Associate Property Auditor Appraiser	3
Research Manager (GIS)	3
Research Analyst II (GIS)	3
Associate Governmental Program Analyst	3,7-9
Staff Information Systems Analyst	8
Associate Information Systems Analyst	8

COUNTY PROPERTY TAX DIVISION

CEA	All
Principal Property Appraiser	3,4,7-9
Research Analyst	3
Air Resources Engineer	3
Senior Petroleum and Mining Appraisal Engineer	3
Supervising Property Appraiser (Assessment Practices Surveys Section)	3,7-9
Senior Specialist Property Appraiser (Assessment Practices Surveys Section)	3
Senior Specialist Property Auditor Appraiser (Assessment Practices Surveys Section)	3
Associate Property Appraiser (Assessment Practices Surveys Section)	3
Associate Property Auditor Appraiser (Assessment Practices Surveys Section)	3
Supervising Property Appraiser (Timber Tax Section)	4,7-9
Senior Specialist Property Auditor Appraiser (Timber Tax Section)	4
Associate Property Auditor Appraiser (Timber Tax Section)	4
Senior Forest Property Appraiser	4
Associate Forest Property Appraiser	4

VALUATION DIVISION

CEA	All
Principal Property Appraiser	3,7-9
Senior Specialist Property Appraiser	3
Senior Specialist Property Auditor Appraiser	3
Supervising Property Appraiser	3, 7-9
Associate Property Appraiser	3
Associate Property Auditor Appraiser	3

ENVIRONMENTAL FEES DIVISION

CEA	All
Business Taxes Compliance Supervisor	1,2,9
Business Taxes Compliance Specialist	1,2,9
Supervising Tax Auditor	1,2,9
Business Taxes Specialist II or III	1,2,9
Business Taxes Specialist I	1,2 *
Associate Tax Auditor	1,2 *

EXCISE TAXES AND FEES DIVISION

CEA	All
Business Taxes Compliance Supervisor	1,2,6,9
Business Taxes Compliance Specialist	1,2,6,9
Supervising Tax Auditor	1,2,6,9
Business Taxes Specialist II or III	1,2,6,9
Business Taxes Specialist I	1,2,6 *
Associate Tax Auditor	1,2,6 *

FUEL TAXES DIVISION

CEA	All
Business Taxes Administrator	1,2,7-9
Staff Services Manager	1,2,9
Business Taxes Compliance Supervisor	1,2,9
Business Taxes Compliance Specialist	1,2,9
Supervising Tax Auditor	1,2,9

Business Taxes Specialist II or III	1,2,9
Business Taxes Specialist I	1,2 *
Associate Tax Auditor	1,2 *

SALES AND USE TAX DEPARTMENT

CEA	All
Business Taxes Administrator	1,2,7-9
Administrative Assistant	1,2,7,8
Business Taxes Compliance Supervisor (LAN Administrator)	1,2,8,9
Business Taxes Compliance Supervisor	1,2,9
Business Taxes Compliance Specialist	1,2,9
Supervising Tax Auditor	1,2,7-9
Business Taxes Specialist II or III	1,2,7-9
Business Taxes Specialist (Special Projects)	1,2,7-9
Business Taxes Specialist (Systems Coordinator)	1,2,8,9
Business Taxes Specialist (Training Group)	1,2,9
Business Taxes Specialist (Computer Audit Specialist)	1,2,8
Business Taxes Specialist (Regulation Coordinator)	1,2
Business Taxes Specialist (Revenue Opportunity)	1,2
Business Taxes Specialist (Technical Advisor)	1,2
Business Taxes Specialist (Project Coordinator)	1,2
Business Taxes Specialist I	1,2 *
Associate Tax Auditor	1,2 *
Staff Information Systems Analyst	1,2,8
Associate Information Systems Analyst	1,2,8
Associate Governmental Program Analyst	1,2
Office Services Manager (Supervisor, Cashier Unit)	7

CONSULTANT

All **

* Pursuant to 2 California Code of Regulations, section 18733, in lieu of filing ~~Statements of Economic Interests (Form 700)~~ Form 700, an employee in this disclosure category who was not assigned and did not participate in any property tax audits shall file Form 700-A. ~~who during the course of the reporting period has not participated in an assignment in which he or she has an economic interest may sign a statement to that effect under penalty of perjury, on a form provided by the Board Equalization or the applicable form developed by the Fair Political Practices Commission. The statement shall be filed and processed in the same manner as the Form 700. An employee who participated in an assignment in which he or she had an economic interest shall use the appropriate schedules of Form 700 to disclose that interest.~~

** Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The Executive Director may determine in writing that a particular consultant is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

APPENDIX B
DISCLOSURE CATEGORIES

CATEGORY 1

Reporting Requirements: Investments and business positions in business entities and income from sources licensed or regulated by or registered with the Board under the Bradley-Burns Uniform Local Sales and Use Tax Law, the Sales and Use Tax Law and the Transactions and Use Tax Law.

CATEGORY 2

Reporting Requirements: Investments and business positions in business entities and income from sources licensed or regulated by or registered with the Board under the Alcoholic Beverage Tax Law, ~~Ballast Water Management~~Marine Invasive Species Fee Collection Law, California Tire Fee Law, Childhood Lead Poisoning Prevention Fee Law, Cigarette and Tobacco Products Tax Law, Diesel Fuel Tax Law, Emergency Telephone Users Surcharge Law, Energy Resources Surcharge Law, Hazardous Substances Tax Law, Integrated Waste Management Fee Law, International Fuel Tax Agreement, Motor Vehicle Fuel Tax Law, Natural Gas Surcharge Law, Occupational Lead Poisoning Prevention Fee Law, Oil Spill Response, Prevention, and Administration Fees Law, Underground Storage Tank Maintenance Fee Law, and Use Fuel Tax Law.

CATEGORY 3

Reporting Requirements: (1) Investments and business positions in business entities and income from sources which own, or owned, property assessed or valued or exempted by the Board during the previous two years; (2) Interests in real property located within the State of California except interests in real property which is used principally as the residence of the employee.

CATEGORY 4

Reporting Requirements: (1) Investments and business positions in business entities and income during the previous two years from sources of the type registered with or regulated by the Board under the Timber Yield Tax Law; (2) Interests in real property classified as timberland under the Timber Yield Tax Law.

CATEGORY 5

Reporting Requirements: Investments and business positions in business entities and income from sources which filed an appeal within the preceding 12 months or have an appeal pending under the Personal Income Tax Law, Bank and Corporation Tax Law, or Senior Citizens Property Tax Assistance Law or have a pending claim under the Taxpayers' Bill of Rights for one of these tax programs.

CATEGORY 6

Reporting Requirements: Investments and business positions in business entities and income from sources authorized by the Insurance Commissioner to transact business in this state.

CATEGORY 7

Reporting Requirements: Investments and business positions in business entities and income from sources of the type which, within the previous two years, contracted with the Board or the State of California to provide services, equipment, vehicles, leased space, materials or supplies.

CATEGORY 8

Reporting Requirements: Investments and business positions in business entities and income from sources of the type which, within the previous two years, contracted with the Board or the State of California to provide computers, computer programming, or any other services or training or equipment related to such things as computers, software, automation, data processing, communication, information technology, and duplication services.

CATEGORY 9

Reporting Requirements: Investments and business positions in business entities and income from sources of the type which, within the previous two years, contracted with the Board or the State of California to provide:

- (1) Services, materials, equipment, or consultation related to personnel services or the training of employees;
- (2) Conference facilities utilized for personnel services or the training of employees.

CATEGORY 10

Reporting Requirements: Investments and business positions in business entities and income from sources of the type to contract with the Board or the State of California to provide equipment (including, but not limited to, cashiering, computer, data processing, duplication, information technology, mail processing, security, software, tax return processing, telecommunications, and warehousing); materials (including, but not limited to, building, decorating and space planning); services (including, but not limited to, automation, computer programming, contracting, data security, design, engineering, and physical security); and supplies (including, but not limited, to furniture and office).

CATEGORY 11

Reporting Requirements: Investments and business positions in business entities and income from sources of the type which, within the previous two years, contracted with the Board or the State of California to provide telecommunications equipment and services.